



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 5/19/08

MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007-2601

EDWIN M. LEVY
Senior Counsel, Commercial and
Real Estate Litigation Division
Room 3-241
Phone: (212) 788-1163
Fax: (212) 788-8872
elevy@law.nyc.gov

May 15, 2008

BY HAND

Honorable Lewis A. Kaplan
United States District Judge
United States District Court
500 Pearl Street
New York, NY 10007

MEMO ENDORSED - *pl*

Re: *William A. Gross Construction Associates, Inc. v.
American Manufacturers Mutual Insurance
Company, and other actions, 07-CV-10639
(LAK)*

Dear Judge Kaplan:

I represent Fourth-Party Defendant Dormitory Authority of the State of New York ("DASNY") in the above-referenced matter. I respectfully request that DASNY's time to respond to the Fourth-Party Complaint be extended from May 20, 2008 to June 6, 2008. This application is made on consent of the parties.

As Your Honor is aware, this action arises out of the construction of the Bronx County Hall of Justice Project ("BCHJ" or the "Project") which has engendered numerous, highly complex and large claims. As I explained during our last conference, this office represents DASNY in all matters arising out of the Project. We are presently working to address the claims and issues arising from them globally as well as litigating individual matters.

DASNY intends to move to dismiss, in lieu of answering, the Fourth-Party Complaint. We recently discovered a release executed by Fourth-Party Plaintiff Cauldwell-Wingate Company, L.L.C. ("CWC"), in favor of DASNY and our motion will be predicated on this release as well as jurisdictional grounds.¹ CWC's release purports to discharge all of its claims

¹ This release was previously circulated to the parties and Magistrate Judge Andrew J. Peck.

THE CITY OF NEW YORK LAW DEPARTMENT

Honorable Lewis A. Kaplan

May 15, 2008

Page 2

with the exception of retainage held by DASNY (just under \$2 Million). Thus, if granted on this ground, plaintiff's claims herein would be reduced from approximately \$25 Million to approximately \$2 Million. Unfortunately, because of the press of other claims arising out of the Project a short additional period is necessary to draft the motion.

Additionally, we request this extension due to the death of the mother of a key member of our litigation team, my direct supervisor, who must be consulted and who must review the motion papers.

The short extension in our time to respond to the Fourth-Party Complaint will not delay proceedings herein. As directed, the parties will continue to conduct discovery during this period.

In addition to agreeing to extend DASNY's time to respond to the Fourth-Party Complaint, the parties have agreed to the following briefing schedule which we submit for your approval:

- (a) DASNY's motion to be served by June 6th,
- (b) opposition papers to be served by July 11th and 6/27
- (c) reply papers to be served by August 11th 7/9 } AP

Respectfully submitted,



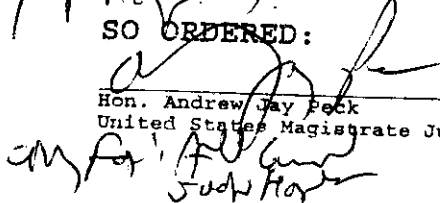
Edwin M. Levy (EL7792)

Assistant Corporation Counsel

MEMO ENDORSED 5/19/08

Above schedule approved as workable.
The 5/19/08 stay of discovery and discovery
will continue as per network previously
set by Judge Hays. (And under the
parties consent pursuant to 28 USC § 636(c), the
court will be in final of Judge Hays.)

SO ORDERED:



Hon. Andrew Jay Peck
United States Magistrate Judge

BY FAX

THE CITY OF NEW YORK LAW DEPARTMENT

Honorable Lewis A. Kaplan
May 15, 2008
Page 3

cc: (Via First Class Mail)

Dunnington, Bartholow & Miller, L.L.P.
477 Madison Avenue, 12th Floor
New York, NY 10017

Attn: Carol A. Sigmond, Esq.

Zichello & McIntyre, L.L.P.
420 Lexington Avenue, Suite 2800
New York, NY 10170

Attn: Vincent J. Zichello, Esq.

Ingram, Yuzek, Gainen, Carroll & Bertolotti, L.L.P.
250 Park Avenue
New York, NY 10177

Attn: Patricia Hewitt, Esq.

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: May 19, 2008

Total Number of Pages: 4

TO	FAX NUMBER
Edwin Levy, Esq.	212-788-8872
Patricia Hewitt, Esq.	212-907-9681
Vincent J. Zichello, Esq.	212-972-5569
Carol A. Sigmond, Esq.	212-661-7769

TRANSCRIPTION:

MEMO ENDORSED 5/19/08

Above schedule approved as modified. There is no stay of discovery and discovery will continue on the schedule previously set by Judge Kaplan. (And unless the parties consent pursuant to 28 USC § 636(c), the motion will be in front of Judge Kaplan.)

Copy to: Judge Lewis A. Kaplan